

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KEVIN JACKSON,

Plaintiff,

v.

C-1-01-756

SOY SOK, et al.,

Defendants.

ORDER

This matter is before the Court upon a Motion for Relief from Judgment pursuant to Fed. R. Civ. P. 60(a) filed by St. Paul Insurance Company (St. Paul) (doc. 35). Movant asks the Court to clarify and/or correct its Order of June 23, 2004, dismissing without prejudice plaintiff's claims against defendants Ohio Casualty Group, West American Insurance Co., St Paul Fire and Marine Insurance Company, and USF&G Insurance Company (doc. 32). Movant asks the Court to correct what it characterizes as a "clerical error" in the Court's Order by including language specifying that plaintiff is required to advance defendants' attorney fees if he elects to re-file this case within one year. Plaintiff has not responded to the motion.

At the hearing held by the Court regarding plaintiff's motion to dismiss without prejudice on March 25, 2004, the Court indicated its intention to require plaintiff to pay the costs incurred by the defendants in this action, including reasonable and necessary attorney fees which would

be duplicated in the event the plaintiff re-filed the case within a year. While the Court believes this concept is contained in its original order of dismissal without prejudice, the Court, in order to clarify the record, grants the motion in part.

Thus, pursuant to Fed. R. Civ. P. 41(d), if plaintiff re-files this action within one year of June 23, 2004, plaintiff will be ordered to pay the costs of this case, which shall include the reasonable and necessary attorney fees incurred in this case by the insurance company defendants which will be rendered useless by the dismissal without prejudice of this case by plaintiff.

IT IS SO ORDERED.

S/ Herman J. Weber
HERMAN J. WEBER, SENIOR JUDGE
UNITED STATES DISTRICT COURT

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